

### **REMARKS**

This responds to the Office Action dated January 29, 2008.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1-5 remain pending in this application.

#### **§101 Rejection of the Claims**

Claims 1-5 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1-5 are directed at an apparatus. Specifically, claims 1-5 are directed at an apparatus for playback of recordings and communication with a remote database and do not recite the term "medium." Claims 1-5 are thus statutory and it is respectfully requested that the rejection be withdrawn.

#### **§103 Rejection of the Claims**

Claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaneko et al. (European Patent Application No. EP1 107254A2) in view of Janik (U.S. Patent No. 7,142,934).

Claim 1 recites a memory to store two distinct elements related to a recording: "a textual recording name of the recording" and "indicating data that can be used for identification of the recording." The "indicating data" is "obtained from a recorded signal output device."

In order to show these features of claim 1, the Office action cites Kaneko at [0011] reciting memory for storing audio information, such as music information or the like, comprising a plurality of unit information, such as a plurality of music compositions or the like, and a transmitting device, such as a portable telephone, for transmitting correspondence information, such as music list information. The Office action specifically states that "a memory to store a textual recording name of the recording and indicating data ... that can be used for identification of the recording," recited in claim 1 is disclosed in Kaneko at [0011], pointing to "memory that

stores audio information, unit, information, and music lists." (Detailed action, pages 3-4.) The memory in Kaneko is to store music information comprising unit information ("each of the plurality of unit information is a music composition constituting the audio information," Kaneko, [0031]). Music lists are mentioned in [0011] as an example of correspondence information that may be transmitted by a transmitting device. (Kaneko, [0011].) Thus, contrary to the assertion in the Office action, Kaneko at [0011] does not disclose "a memory to store a textual recording name of the recording and indicating data ... that can be used for identification of the recording," recited in claim 1.

While referring to music information, unit information, and music lists mentioned in Kaneko, the Office action did not specify which feature in Kaneko is regarded to correspond to "a textual recording name of the recording" and which feature in Kaneko is regarded to correspond to "indicating data ... that can be used for identification of the recording," recited in claim 1. Applicants studied Kaneko as a whole and would like to point out that music information is described in Kaneko as audio information comprising unit information (Kaneko, [0011], [0031]). Thus, neither music information nor unit information (both of which described as audio information in Kaneko) can be regarded as textual information. From the three categories of items (music information, unit information, and music lists) listed in the Office action to show the above-mentioned feature of claim 1, only music lists may possibly be regarded as textual information. Applicants therefore have to assume that the Office action regards *the music information comprising unit information* to correspond to the "indicating information" recited in claim 1. If this assumption is incorrect, it is respectfully requested that an explicit element in Kaneko is cited as being regarded to correspond to the "indicating data" recited in claim 1.

Proceeding on the assumption that the Office action regards *the music information comprising unit information* to correspond to the "indicating information" recited in claim 1, Applicants submit that Kaneko fails to disclose or suggest a communication device **"to obtain the textual recording name by sending the indicating data to the remote database,"** as recited in claim 1. The portion of Kaneko cited in the Office action as allegedly disclosing this feature reads as follows:

Finally, the interface 25 obtains through the bus line 9 the later-described music title list information corresponding to each music in the music information recorded in the hard disc HD, and outputs it to the portable telephone HO, and also outputs the later-described reproduction control information inputted from the portable telephone HO, through the bus line 9 to the system controller 4 and the audio reproducing unit 19.

Kaneko, [0061].

As can be clearly seen, the passage above does not refer either to a remote database, nor to sending music information (allegedly corresponding to indicating data) to the remote database in order to obtain the textual recording name. Neither is this feature disclosed anywhere else in Kaneko.

Janik is directed at an audio converter device that converts digital audio data into analog electrical data. Janik, whether considered separately or in combination with Kaneko, fails to disclose or suggest "indicating data, obtained from said recorded signal output device, that can be used for identification of the recording" and "a communication device, occasionally in communication with the remote database, to obtain the textual recording name by sending the indicating data to the remote database" recited in claim 1.

Thus, because the combination of Kaneko and Janek fails to disclose or suggest every element of claim 1, claim 1 and its dependent claims are patentable and should be allowed.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
408-278-4052

Date 5-28-2008

By 

Elena B. Dreszer  
Reg. No. 55,128

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 28<sup>th</sup> day of May 2008.

Dawn R. Shaw



Name

Signature